

III. REMARKS

Claims 1-9, 13 and 16 are not unpatentable under 35 U.S.C. 103(a) over Persson in view of Tiedmann et al.

Independent claims 21-23, 25 and 27 recite a definition of "bearer" which is supported by the description (page 3, lines 5-11). These claims also recite "...determining the transmit power for more than one bearer when the transmission rate of the at least one bearer changes so that the control of said at least one of said bearers is arranged to impact the control of other bearers" (emphasis added). (See page 4, ll. 17-18; page 6, ll. 16-20; page 21, line 32, to page 22, line 14).

The claimed invention is for the problem of power control during fast fading. To speed up the power control, controlling one bearer impacts control of other bearers.

Persson in Figure 5 discloses setting a plurality of power levels, but not that control of one bearer impacts the control of the other bearers. Similarly, Tiedmann discloses in Figures 8-10 power control, but again there is no disclosure that control of one bearer impacts the control of the other bearers. Thus, even if the references are combined, the result is not the claimed invention, which provides power control during fast fading. Hence, the rejection of claims 1-9, 13 and 16 should be withdrawn.

Claim 10 is not unpatentable under 35 U.S.C. 103 (a) over Persson in view of Tiedmann and further in view of Reed.

Reed discloses power level control of a base station. There is no disclosure of control of a plurality of stations let alone that control of one impacts any others. Thus, even if Reed is combined with the first two references, the result still is not the claimed invention.

Furthermore, as the Examiner admits, Reed discloses iterative measurement of a fading characteristic and iterative comparison of the fading to a threshold value, but the

Examiner states there is no iterative adjustment of the power. However, page 4, lines 8-14, describe increasing the power level when needed. In particular, lines 13 and 14 state that "After the test in block 17, the loop repeats" (emphasis added). Thus, it is respectfully submitted that there is disclosed iterative power level adjustment in Reed even if it is not so called. Also, claims 1, 5 and 6 of Reed recite controlling the power level when fading "crosses the threshold value...". This crossing can happen many times during a transmission. Thus, these claims also disclose an iterative power level adjustment method.

Persson discloses in column 3, lines 18 to 23, as follows:

"It is therefore an exemplary objective of the present invention to adjust the power levels associated with a plurality of mobile stations, in response to the changing needs of the plurality of mobile stations, without resorting to the above described iterative procedure."

Hence it is improper to combine Reed with Persson in the first place since Persson expressly teaches away from Reed, see *KSR International Co. v. Teleflex, Inc.* 82 USPQ2d 1385, 1399.

For both of the above reasons, i.e., it is improper to combine the references and even if they are somehow combined, the result is not the claimed invention, the rejection of claim 10 should be withdrawn.

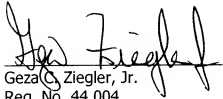
Although claims 19 and 20 have been amended, they still recite the limitations of allowable independent claims 11 and 14, respectively, and are therefore allowable.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, reopening prosecution, remand to the Examiner, favorable reconsideration and allowance are respectfully requested.

Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment of \$300 for increasing the number of total claims by six, \$1050 for increasing the number of total independent claims by 5, \$120 for a one-month extension of time and for any other fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Geza C. Ziegler, Jr.
Reg. No. 44,004

30 July 2008
Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512